

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

SAMUEL ISRAEL III,

Defendant.

05 CR 1039 (CM)

**AFFIDAVIT OF SAMUEL ISRAEL III IN SUPPORT OF  
MOTION FOR RECUSAL PURSUANT TO 28 U.S.C. § 144**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

SAMUEL ISRAEL III, being duly sworn, deposes and says:

1. I am the defendant in United States v. Samuel Israel III, 05 Cr. 1039 (CM). I make this affidavit in support of my motion for recusal of Judge McMahon, pursuant to section 144 of Title 28 of the United States Code.

2. Facts that recently have come to light cause me to believe that Judge McMahon has a personal bias or prejudice against me. These facts are the following:

a. In the summer of 2007, Judge McMahon's duty station changed from the United States Courthouse in White Plains to the United States Courthouse in Manhattan. Pursuant to a memo that Judge McMahon issued on July 26, 2007, her entire pending criminal docket was transferred to Judge Karas effective August 3, 2007. However, my case was not reassigned to Judge Karas. The fact that Judge McMahon transferred all of her cases to Judge Karas, but retained my case (and the other cases related to the Bayou Fund), leads me to believe that Judge McMahon has a particular interest in my case, and wishes to dictate my sentence; I believe that this interest in my case arises from the bias or prejudice that she holds against me.

That belief is furthered by the fact that Judge McMahon has ordered my sentencing to proceed despite the fact that my cooperation with the government is on-going. As a result, my sentence likely will not reflect all of the cooperation for which I would be given credit if Judge McMahon had allowed me to complete my cooperation prior to sentencing.

b. On February 6, 2008, Judge McMahon issued an order in which she stated that she is “not interested in” my medical problems. I understand that under the law, Judge McMahon is required to be “interested in” my medical condition, and to take my condition into account in imposing sentence. That Judge McMahon has publicly stated her lack of interest in my medical problems leads me to believe that she has no regard for my well-being, and that she has a bias or prejudice against me.

c. Judge McMahon also ordered docketed, on the electronic filing system, a letter from my attorneys that described in detail my medical condition, treatments, scheduled doctors’ appointments and the identities of my treating physicians. As a result, my confidential medical information was in the public record. At least one internet blogger used that letter to publicly mock my medical condition and me. Judge McMahon’s lack of regard for my privacy, as demonstrated by her docketing a letter that contained confidential medical information, leads me to believe that she has a bias or prejudice against me.

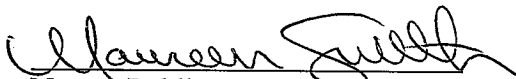
d. My attorneys have informed me that as a result of the schedule set in Judge McMahon’s February 6 Order, my time to object to the United States Department of Probation’s Pre-Sentence Report (PSR) was seriously circumscribed. According to my attorneys, under the Federal Rules of Criminal Procedure, defendants are entitled to 14 days to object to an initial PSR, but I was only allowed six days to object to my initial PSR. My attorneys could not contact the Court regarding this deprivation of my rights because Judge

McMahon stated in her February 6, 2008 Order that she did not wish to receive further correspondence related to the issues addressed in her Order. The fact that Judge McMahon's February 6 Order caused me to be deprived of rights to which I am entitled under the Federal Rules of Criminal Procedure leads me to believe that Judge McMahon has a bias or prejudice against me.

3. These facts, separately and taken together, demonstrate that Judge McMahon has a personal bias or prejudice against me, and should recuse herself from my case.

  
SAMUEL ISRAEL III

Sworn to before me this  
3 day of April, 2008

  
Notary Public

MAUREEN SMITH  
Notary Public, State of New York  
No. 01SM5077496  
Qualified in Kings County  
Commission Expires May 12, 20 11